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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,136	03/30/2001	Vincent T. Kozyrski	6611-01	8251
50811 7590 05/30/2007 O'SHEA, GETZ & KOSAKOWSKI, P.C. 1500 MAIN ST. SUITE 912 SPRINGFIELD, MA 01115				
			EXAMINER PRONE, JASON D	
			ART UNIT 3724	PAPER NUMBER
			MAIL DATE 05/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/822,136

Applicant(s)

KOZYRSKI ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Richter (5,758,426).

In regards to claims 33 and 35, Richter discloses the same invention including a rotary cutter (11 and Column 4 lines 24-26) comprising a circular cutting blade (21) having an axis, a diameter, a maximum thickness extending between first and second lateral sides (Fig. 4), a cutting edge (33) defined by first and second edge surfaces (35), the first edge surface extends between the first lateral side and the second edge surface and the second edge surface extends between the second lateral side and the first edge surface (35), the first and second edge surfaces are symmetrical about the cutting edge (Fig. 4), the cutting edge includes an edge angle defined by the first and second edge surfaces that is not less than 40° and not greater than 50° (Column 4 line 1), the diameter of the cutting blade is not greater than fifteen times the maximum thickness (Column 4 lines 16-18), a handle having a grip portion (15) and an axle on which the cutting blade is pivotally mounted (19), the cutting blade and the manner which it is mounted on the handle permits the cutter to travel a multi-directional path

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(Fig. 3), and the handle is operable to permit the cutting blade to travel is a directionally unrestricted path (Fig. 3).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindley (3,740,848) in view of Richter. In regards to claims 33 and 35, Lindley discloses the invention including a rotary cutter (Title) comprising a circular cutting blade (3) having an axis, a diameter, a maximum thickness extending between first and second lateral sides (Fig. 4), a cutting edge (3) defined by first and second edge surfaces (Fig. 4), the first edge surface extends between the first lateral side and the second edge surface and the second edge surface extends between the second lateral side and the first edge surface (Fig. 4), the first and second edge surfaces are symmetrical about the cutting edge (Fig. 4), a handle having a grip portion (21) and an axel on which the cutting blade is pivotally mounted (35), the cutting blade and the manner which it is mounted on the handle permits the cutter to travel a multi-directional path (Fig. 2 and Fig. 3), and the handle is operable to permit the cutting blade to travel is a directionally unrestricted path (Fig. 1).

However Lindley is silent with respect to the dimensions of the cutting wheel and therefore fails to disclose the cutting edge includes an edge angle defined by the

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first and second edge surfaces that is not less than 40° and not greater than 50° and the diameter of the cutting blade is not greater than fifteen times the maximum thickness.

Richter teaches it is old and well known for rotary cutters for metal to incorporate an edge angle defined by the first and second edge surfaces that is not less than 40° and not greater than 50° (Column 4 line 1) and the diameter of the cutting blade is not greater than fifteen times the maximum thickness (Column 4 lines 16-18). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention, to have provided Lindley with a cutting wheel with a specific angled cutting edge and thickness, as taught by Richter, to allow for a specific sized cut.

Response to Arguments

5. Applicant's arguments with respect to claims 33 and 35 have been considered but are moot in view of the new ground(s) of rejection.

6. In response to applicant's argument that the prior art fails to disclose travel in unrestricted movement and or multi-directional movements, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 8:00-5:30, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 25, 2007



Patent Examiner
Jason Prone
Art Unit 3724
T.C. 3700



Clark F. Dexter
Primary Examiner